VZCZCXRO6830
RR RUEHAG RUEHDF RUEHIK RUEHLZ RUEHROV
DE RUEHFR #7680/01 3391612
ZNR UUUUU ZZH
R 051612Z DEC 06
FM AMEMBASSY PARIS
TO RUEHC/SECSTATE WASHDC 3580
INFO RUCPDOC/USDOC WASHDC
RHEBAAA/USDOE WASHDC
RUCNMEM/EU MEMBER STATES
RUEANFA/NRC WASHDC

UNCLAS SECTION 01 OF 02 PARIS 007680

SIPDIS

SENSITIVE
SIPDIS

STATE FOR EUR/WE; DRL/IL; OES; NP; EB/ESC, AND EB/CBA
USDOC FOR 4212/MAC/EUR/OEURA
DOE FOR DAVID PUMPHREY PI-32 AND KP LAU NE-80

E.O. 12958: N/A
TAGS: ENRG EPET EIND EINV ELAB PREL PGOV FR
SUBJECT: FRANCE'S CONSTITUTIONAL COUNCIL POSTPONES GDF PRIVATIZATION, REINSTATES ELECTRICITY AND GAS PRICE LIBERALIZATION

REF: PARIS 6678

NOT FOR INTERNET DISTRIBUTION

Summary

¶1. (SBU) On November 30, the French Constitutional Council indicated that the GOF energy bill was constitutional with two changes: 1) the Suez-Gaz de France (GDF) merger cannot legally take place before July 1, 2007, when GDF loses its monopoly to supply gas to private homes; 2) the GOF energy bill's provisions on regulated prices are invalid since they are incompatible with the 2003 EU energy directives. The Suez-GDF deal, which looked like a done deal a few weeks ago, could become an issue for debate in the upcoming Presidential campaign, with reversal all but certain in the case of a center-left victory by Segolene Royal, and possible even if the center-right wins. End Summary.

Privatization of Suez-GDF postponed until July 2007
-- ------

¶2. (SBU) The merger of French energy groups GDF and Suez hit trouble on November 30 when the Constitutional Council, which rules on the conformity of government legislation with the French Constitution, decided to delay the deal until July 1, 2007. This is the date on which France will fully deregulate its natural gas market, ending GDF's monopoly as a public gas service. The companies and the GOF had hoped to finalize the 83.0 billion euro (USD 106.8 billion) merger by the end of this year. However, the Council stated that the postponement did not preclude preparation for the merger. As a result, the annual general shareholders' meetings of both Suez and GDF are expected to take place early next year, and the management of the two firms will continue to discuss the details of the merger. Although this is clearly a setback for the GOF, the government claimed victory, indicating that the court found the legislation and the merger constitutional.

¶3. (SBU) The 120 Socialist and Communist parliamentarians who brought the case before the Constitutional Council likewise claimed victory. Together with the GDF unions, they oppose a deal entailing GDF privatization. National Assembly Socialist Party faction leader Jean-Marc Ayrault stated that the Council had put "the future of GDF in the hands of the French people" and that "a majority on the left would be in a position to put an end to this privatization" following the election. The CGT Communist-led union called the Council decision "a major slap for (French Prime Minister Dominique de) Villepin and (French Economy and Finance Minister Thierry) Breton."

¶4. (SBU) This decision follows another major legal setback on November 21 when the Paris Court of Appeals ordered a postponement of a GDF board of directors meeting, scheduled to discuss the planned merger, to provide the GDF workers' council sufficient time to review the merger proposal and give its opinion. The court also granted the GDF workers' council the right to designate an expert to review the proposed merger. The GDF workers' council, which represents employees and unions, filed a suit to delay the GDF board meeting until it has enough information on the social impact of the merger. During Parliamentary debates, French energy unions claimed that dozens of thousands of jobs would be lost as a result of the Suez-GDF transaction. GDF immediately appealed, but the appeals court upheld the original ruling. The delay in the shareholders' vote on the deal until next spring means that it will take place during the campaign for the April and May 2007 presidential and the June 2007 legislative elections.

Ruling against regulated energy tariffs

¶5. (SBU) While the energy bill was being debated in the National Assembly, legislators from all political parties introduced a formula for regulating tariffs on energy prices, to be renewed every year. Their clear hope was to protect themselves against anti-merger sentiment in their campaign for the June 2007 Parliamentary elections. They argued that gas prices would rise more quickly under a privatized entity than under state control. However, the Constitutional Council ruled against these parliamentary amendments, indicating that they were contrary to the EU energy directives. Although this part of the Council's decision has received very little press and public attention, it effectively restores the original purpose of the GOF energy bill, which was to liberalize the French energy market and transpose the 2003 EU energy directives into French law.

Comment

¶6. (SBU) The two appeals this month prove that the unions and their political supporters on the left intend to fight GDF's privatization and make it a political issue during the upcoming Presidential and legislative elections. Doing the deal before the election would be tricky, but postponing it until July 2007 will be even harder. Socialist candidate Segolene Royal, has vowed to renationalize GDF if she wins. Likely ruling UMP candidate Nicolas Sarkozy might drop his half-hearted support for the merger. Energy experts, however, are relieved that the Constitutional Council eliminated the regulated tariffs, and markets welcomed the news by bidding up EDF share prices. The decision is an important step in fully opening French energy markets to competition by July 1, 2007. End Comment.

Stapleton